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7 BLEND, LLC,
8 Plaintiff,
9 v.
10 GLENWOOD SMOKED PRODUCTS,
11 INC., et al.,
12 Defendants.

Case No. [19-cv-03834-DMR](#)

**ORDER ON MOTION TO MODIFY
SCHEDULING ORDER**

Re: Dkt. No. 141

13 Defendants Glenwood Smoked Products, Inc., Glenwood Snacks, LLC, Mitch Scott, Clark
14 Scott, Scott Zabriskie, and Daniel Haller filed a motion to modify the case management
15 scheduling order. [Docket No. 141.] Defendants seek extensions of the fact and expert discovery
16 deadlines, deadline to hear dispositive motions, pretrial deadlines, and continuance of the July 21,
17 2021 pretrial conference and August 2, 2021 trial. Plaintiff Blend, LLC filed a “partial
18 opposition” in which it does not oppose the request to continue the fact and expert discovery
19 deadlines or for a “short continuance of trial,” but opposes the request to continue the dispositive
20 motion deadline. [Docket No. 143.]

21 The original deadline to hear dispositive motions was October 22, 2020. [Docket Nos. 30,
22 37.] The court continued that deadline four times, and pursuant to the court’s Fifth Amended Case
23 Management and Pretrial Order for Jury Trial, the last day for hearing dispositive motions was
24 May 27, 2021. [Docket Nos. 78, 84, 100, 125.] Therefore, any dispositive motions were due by
25 April 22, 2021. On March 26, 2021, the parties filed a stipulation regarding expert discovery
26 deadlines that made reference to a request to continue the deadline to hear dispositive motions but
27 did not propose a new date. [Docket No. 132.] The court granted the stipulation the same day,
28 and on March 29, 2021, issued a clerk’s notice clarifying that the parties’ stipulation “did not

1 actually suggest a new date [by which dispositive motions must be heard], and the court therefore
2 did not grant one.” [Docket No. 134.] Despite the court notifying the parties of the apparent
3 oversight, Defendants took no action to request an extension until the present motion, which they
4 filed on May 24, 2021—after the deadline to file dispositive motions had passed and almost two
5 months after the clerk’s notice. Defendants’ explanation for why they did not take action in
6 response to the March 29, 2021 clerk’s notice is that lead counsel for each of the two groups of
7 defendants were traveling on the date of the notice. However, it is not clear why they did not
8 promptly act when they returned from traveling, or why any of the other six attorneys who
9 received electronic notice of the clerk’s notice on behalf of Defendants did not respond to the
10 clerk’s notice.

11 Defendants also argue that they “could not reasonably meet the deadline for dispositive
12 motions in this case given the material discovery that was incomplete as of April 22, 2021 . . . and
13 the discovery the parties still need to complete,” including the completion of the depositions of
14 Plaintiff’s principals and Rule 30(b)(6) witnesses and expert discovery. Mot. 6. However, they do
15 not describe any dispositive motions they seek to file, let alone how any outstanding discovery
16 relates to such motions. They also do not explain how any dispositive motions would “secure the
17 just, speedy, and inexpensive determination” of this action or further judicial economy. *See Fed.*
18 R. Civ. P. 1.

19 Accordingly, the court orders the following: Defendants’ unopposed motion to extend the
20 discovery deadlines is granted. Consistent with the parties’ agreement, the last day to complete
21 the deposition of Perry Abadir and Costco Wholesale is continued to June 18, 2021, and the last
22 day to complete expert discovery is continued to July 2, 2021. *See Mot. 5.*

23 The court requires further information before ruling on Defendants’ request to continue the
24 deadline to hear dispositive motions. By no later than June 7, 2021, Defendants shall file a letter
25 explaining in detail the grounds for any dispositive motions they seek to file. The letter must also
26 clearly explain in detail how the discovery that was incomplete as of April 22, 2021 is relevant and
27 material to such motions. The letter may not exceed three single-spaced pages in length, including
28 any attached exhibits or other supporting papers. By no later than June 10, 2021, any party who

1 will oppose the motion(s) must file a written response addressing the substance of Defendants'
2 letter. The response may not exceed three single-spaced pages in length, including any attached
3 exhibits or other supporting papers. The court will issue further instructions and/or an order on the
4 request to continue the dispositive motions deadline following submission of the letters.

5 Finally, as to Defendants' unopposed request to continue the trial date and related pretrial
6 deadlines, the July 21, 2021 pretrial conference and August 2, 2021 trial date are vacated. The
7 court will reset the pretrial and trial dates after it receives the additional requested information and
8 rules on Defendants' request to continue the dispositive motion deadline.

9
10 **IT IS SO ORDERED.**

11 Dated: June 2, 2021

